

**NOTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 30, 2005

DIVISION ONE

B178256 People (Not for Publication)
v.
Ramos

The judgment is modified to reflect 894 days of actual time spent in custody to and including resentencing on September 8, 2004, and the trial court is ordered to forward a copy of the modified abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.
Rothschild, J.

B179879 People (Not for Publication)
v.
Naranjo

The sentence is vacated and the case is remanded for the trial court to exercise its discretion whether to impose the 2-year term for the elderly victim enhancement under section 667.9. If so, the trial court then should resentence Naranjo to an aggregate term not exceeding 18 years and 8 months. If not, the trial court then should resentence Naranjo to an aggregate term not exceeding 17 years and 8 months. The trial court should strike rather than stay any unimposed prior prison terms under section 667.5, subd. (b). Thereafter, the trial court should prepare a new abstract of judgment reflecting the new sentence and forward it to the Department of Corrections. In all other respects the judgment is affirmed.

Rothschild, J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION ONE (Continued)

B167155 Gray-Stone & Company (Not for Publication)
 v.
 Vigilant Insurance Company

The judgment is reversed. The trial court is directed to vacate its order granting summary adjudication of plaintiffs' contract-related causes of action and to enter a new and different order denying summary adjudication as to plaintiffs' causes of action for reformation, breach of contract and declaratory relief. Plaintiffs are to recover costs on appeal.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

B178943 People (Not for Publication)
 v.
 McGaughy & Booth

We remand the case to the trial court with directions to correct the abstracts of judgment as follows: For McGaughy, the enhancement for count 4 should be pursuant to section 12022.53, subdivision (b), and the sentence for the enhancement on count 6 should be 3 years and 4 months; for Booth, the enhancement for count 3 should be pursuant to section 12022.53, subdivision (b), and the sentence for the enhancement on count 6 should be 3 years and 4 months. The trial court should send the corrected abstracts to the Department of Corrections. In all other respects the judgment is affirmed.

Rothschild, J.

We concur: Spencer, P.J.
 Mallano, J.

September 30, 2005 (Continued)

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Rothschild, J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION TWO

B176708 Argomaniz (Not for Publication)
v.
City of Los Angeles, et al.

The judgment is affirmed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B169053 People (Not for Publication)
v.
Drake

The judgment is affirmed. The superior court is directed to amend the abstract of judgment to eliminate the incorrect indication that appellant was sentenced as a two-strike defendant and to forward a corrected copy of the abstract to the Department of Corrections.

Boren, P.J.

We concur: Doi Todd, J.
Ashmann-Gerst, J.

September 30, 2005 (Continued)

DIVISION TWO (Continued)

[illegible]

The order under review is reversed and the matter is remanded for a hearing on appellant's petition for rehabilitation and pardon in accordance with the views expressed herein.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B175317 People (Not for Publication)
v.
Flowers

The judgment is affirmed. The superior court is directed to amend the minute order for February 26, 2004, to add the following: “Appellant waived his constitutional rights and admitted two prior convictions of second degree robbery and three prior convictions for which he served a prison term.”

Boren, P.J.

We concur: Doi Todd, J.
Ashmann-Gerst, J.

B179069 People (Not for Publication)
v.
Drake K.

The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

September 30, 2005 (Continued)

DIVISION TWO (Continued)

B174167 People (Not for Publication)
v.
Childress et al.

The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

DIVISION THREE

B175858 People v. Adams (Not for Publication)
B179807 In Re Donald Adams on Habeas Corpus

The trial court's findings on the prior conviction allegations are reversed and the sentence is vacated. The matter is remanded for further proceedings consistent with the opinions expressed herein, including a new sentencing hearing at which the trial court may consider Adams's Romero motion. In all other respects, the judgment is affirmed. The petition for writ of habeas corpus is denied.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B175614 People (Not for Publication)
v.
Guerra

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

September 30, 2005 (Continued)

DIVISION FOUR

[illegible]

The judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.
Hastings, J.

DIVISION EIGHT

Court convened at 9:00 A.M.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

Each of the following:

B173670	People v. King & Taylor
B176063	People v. Reyes
B176361	People v. Nguyen
B176423	People v. Wyatt
B178172	People v. Humphrey
B178824	People v. Medina
B179525	People v. Moratalla
B179696	People v. John
B180005	People v. Emery
B174895	People v. Stevenson

Argument waived, cause submitted.

B178280 Lazar
v.
A New Horizon Credit Counseling Services, Inc. et al.,

Appearances:
G. Howden Fraser for respondents and no appearance by counsel for
appellant. Argument waived, cause submitted.

DIVISION EIGHT (Continued)

B175188 Bakhtiari
 v.
 State of California

Appearances:
Robert W. Vidor, Deputy Attorney for respondent and no appearance by
counsel for appellant. Argument waived, cause submitted.

B176687 People
 v.
 Ramirez

Merits:
Argued by Joanna McKim for appellant and by Daniel Chang, Deputy
Attorney General for respondent. Cause submitted.

B177928 Ugalde
 v.
 Winterbotham et al.,

Appearances:
Thomas N. Thomson for appellant no appearance by counsel for
respondent. Argument waived, cause submitted.

B180714 Zwirn
 v.
 Schweizer et al.,
 In the Matter of The Frieda Zwiren Trust

Merits:
Argued by Robert N. Sacks for appellant and by Ellis Stern for respondents.
Cause submitted.

DIVISION EIGHT (Continued)

B178586 Bohumir Marik
v.
Jaroslav Marik, M.D.,

Merits:
Argued by Gregory Grantham for appellant and by Joseph Lange for respondent. Cause submitted.

B173385 Whitney
v.
Sunnyside Transport

Merits:
Argued by Jeanne Collachia for appellant and by Jerri L. Johnson for respondent. Cause submitted.

B177259 Hubmann
v.
BMW of North America

Merits:
Argued by Peter Hubmann appellant, in propria persona and appearance only by Nita Nagia Parikh for respondent. Cause submitted.

Each of the following:

B176333 Rico et al. v. Chick et al.
B171298 Beddow v. Beddow
B179348 Utility Consumers' Action Network v. AT & T Broadband

Oral argument continued to November 7, 2007, at 9:00 a.m.

Court adjourned at 10:45 a.m.

DIVISION EIGHT (Continued)

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For the reasons set forth above, the judgment is affirmed. Upon remand, the clerk of the superior court is directed to correct the abstract of judgment to show that: (1) James was given a sentence of 15 years of life for the murder conviction; (2) James was given a sentence of 25 years to life under section 12022.53, subdivision (d); and (3) James received two enhancements of five years each under section 667, subdivision (a)(1).

Rubin, Acting P.J.

We concur: Boland, J.
Flier, J.

B183392 Tanis R., (Not for Publication)
v.
Superior Court, Los Angeles County
D.C.F.S. et al., r.p.i.)

The petition for extraordinary writ is denied on the merits. This opinion is final forthwith as to this court under rule 24(b)(3) of the California Rules of Court.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.

DIVISION EIGHT (Continued)

B173183 People v. Dinkins (Not for Publication)

The judgment is conditionally reversed and remanded for further proceedings consistent with the opinions expressed herein.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.

B177648 Bickelmann, (Not for Publication)
v.
Dale Carnegie & Associates Inc. et al.,

The order denying leave to file an amended complaint and imposing monetary sanctions upon Bickelmann and her counsel is reversed. The trial court is directed to vacate the previous order and enter a new order granting leave to amend and denying the request for sanctions. Bickelmann is awarded costs on appeal.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.

B181144 Los Angeles County, D.C.S. (Not for Publication)
v.
Danilo M.,

The juvenile court's minute order dated January 10, 2005, is reversed to the extent it sustains the petition and orders Father to attend sexual abuse counseling.

Cooper, P.J.

We concur: Boland, J.
 Flier, J.

DIVISION EIGHT (Continued)

B176369 People
 v.
 Mojica

Filed order vacating submission order of 9/29/05. Additional briefing due
October 12, 2005

B182239 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Miranda P. et al.

The orders terminating parental rights and denying the section 388 petitions
are affirmed.

Boland, J.

We concur: Rubin, Acting P.J.
 Flier, J